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## TITLE XVII - REGULATION OF BUSINESS AND COMMERCE

### ARTICLE 1 - LICENSING OF BUSINESS ACTIVITY

#### Sec. 17-1-1 Definitions

For purposes of this Article, the following terms shall have the following meanings:

- A. "Business" means any activity conducted in exchange for anything of value.
- B. "Business Specialist" means the Pueblo official who issues licenses hereunder and otherwise administers the provisions of this Article.
- C. "Licensee" means a Person to whom a business license is issued.
- D. "Sale" means any transaction whereby title or possession, or both, of personal property is transferred by any means whatsoever, for consideration, or any transaction whereby services are rendered for consideration. Such consideration may be either in the form of a price in money, rights, or property, or by exchange or barter, and may be payable immediately, or in the future, or by installments.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

#### Sec. 17-1-2 License Required; Exemptions

A. Unless expressly excepted herein, every Person regularly engaged in Business on Pueblo Lands, including any Person engaged in work on Pueblo Lands lasting more than three consecutive days, or more than five days in any three-month period, and any transient vendor who locates his business on Pueblo lands for two or more consecutive days, or more than three days in any month, must hold a valid Business License issued by the Business Specialist.

B. The following Persons are exempt from the requirement of having a Business License under the provisions of this Article:

1. A Pueblo member engaged in jewelry or pottery making or other arts and crafts production, and the sale at retail of goods made by such person, but only by such person or members of such person's immediate family, but this exception shall not apply if such sales are conducted on lands leased from the Pueblo or a Pueblo member for that purpose;
2. A Pueblo member engaged in livestock or other agricultural commodity production, including the sale of livestock or agricultural products produced thereby, unless such activity is conducted on lands leased from the Pueblo or a Pueblo member for that purpose;
3. Religious or charitable organizations, or non-profit entities that are controlled by the Pueblo, if the purpose of the entity's activity is within the scope of the religious, charitable, or non-profit organization's purposes and such organization (other than a Pueblo-controlled entity) has been granted an exemption from federal income tax under Section 501(c)(3) of the United

States Internal Revenue Code as it now exists or is hereafter amended; and

4. The Pueblo or any entity that is wholly owned by the Pueblo.

C. It is presumed that every Person conducting Business on Pueblo Lands is subject to licensure hereunder. The burden of substantiating an entitlement to an exemption falls on the Person claiming it.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991.

#### Sec. 17-1-3 Powers of the Business Specialist

A. The Business Specialist shall have the authority and the duty to review and approve or reject applications for Business Licenses, to issue Business Licenses and renewals thereof, to investigate abuses or violations of this Article, to conduct background investigations of applicants prior to issuing licenses when the Business Specialist deems such investigations to be warranted, and otherwise to enforce the provisions of this Article.

B. The Business Specialist may adopt rules and regulations not inconsistent with this Article to govern the procedures for the issuance of Business Licenses, the terms and conditions applicable to Business Licensees, record keeping and inspection requirements for Business Licensees, and other matters reasonably related to the licensing of Businesses within Pueblo Lands.

C. The Business Specialist shall maintain a file on each application for a Business License and the action thereon, and the subsequent history thereof, including any complaints received by the Pueblo concerning such applicant, and documents pertaining to any action thereon; and shall perform such other functions relating to this Article as the Tribal Council may direct.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

#### Sec. 17-1-4 Classification of Licenses

Licenses shall be issued according to the class of Business activity being carried on, as set forth in this section.

##### A. Class 1 License: Non-Transient Sales of Goods and Services.

1. Any Person engaged in retail or wholesale Sales of goods or services of any kind from a fixed location on Pueblo Lands, or by means of fixed facilities located on Pueblo Lands, shall obtain a Class 1 License.

2. A Class 1 License shall not be issued unless the proposed Licensee has a right to the use of the location at or facilities by which the Business is conducted, as shown by a valid federally approved lease, easement or permit issued to such Licensee for such location, or a sublease issued pursuant to such federally approved lease, or a valid permit or assignment issued by the Pueblo.

B. Class 2 License: Transient Sales of Goods and Services.

1. Each Person selling or trading in goods or services on Pueblo Lands from a vehicle or temporary or movable stand or booth, or who is engaged in construction or other Business activity on Pueblo Lands for a limited period of time lasting longer than two consecutive days, or lasting longer than three days in any month, shall obtain a Class 2 License.

2. A Class 2 licensee operating from a vehicle or temporary or movable stand or booth may only conduct such business at locations specifically designated for such types of operations by the Pueblo, or with the express permission of the owner or assignee of the land.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 17-1-5 Application for License

The applicant for any Business License shall apply in writing on a form provided by the Business Specialist setting forth the following information:

A. The full name, address, and telephone number of the applicant, and, if applicable, each of its owners (including residential address and mailing address, if different, of each); if the applicant is a corporation, partnership or other separate entity, the application shall also identify the jurisdiction within which the entity is organized; and the application shall state whether the applicant, or the applicant's owners, is a member of the Pueblo, or if not, of any other recognized Indian tribe;

B. The exact nature of the Business that the applicant is carrying on or proposes to carry on, on Pueblo Lands.

C. Satisfactory evidence as to the applicant's right to use the land on which the Business is to be conducted;

D. The federal tax identification number or Social Security number applicable to the Business.

E. With respect to an application for a Class 2 license, the number of days and the beginning and ending dates on which the applicant plans to be engaged in Business on Pueblo lands.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991.

Sec. 17-1-6 Application and Renewal Fees

Persons subject to licensing under this Article shall pay a fee for a Business License or the renewal thereof, which shall be in addition to any fees required by federal regulations.

A. Class 1 License: \$25.00 per year.

B. Class 2 License: \$2.00 per day, or \$25.00 for a calendar year.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991.

Sec. 17-1-7 License Term; Renewal

A. The term of each Class 1 Business License is one year from the date of issuance.

B. Application for renewal of a Class 1 Business License may be made at any time prior to the expiration of the License, on a form to be supplied by the Business Specialist and shall be accompanied by all required fees. A renewal application submitted after the expiration of the License shall be accompanied by a late fee in the amount of \$25.00, in addition to the required renewal fee.

C. A Class 2 Business License shall have a term of days, based on the number of days specified on the application and for which payment is submitted; but an applicant for a Class 2 Business License may purchase a license that remains valid throughout the calendar year, for as many days as the applicant wishes to engage in Business on Pueblo Lands during the year. An application for renewal of a year-long Class 2 license may be made at any time prior to the expiration of the license. A renewal application submitted after the expiration of the License shall be accompanied by a late fee in the amount of \$25.00, in addition to the required renewal fee.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991.

Sec. 17-1-8 Conditions of Licenses

A. By applying for and accepting a Business License under the provisions of this Article, the applicant acknowledges that it is entering into a purely voluntary consensual relationship with the Pueblo, and accepts and submits itself to the full civil regulatory jurisdiction of the Pueblo with respect to the conduct of the applicant's business within Pueblo Lands and the applicant's property related thereto, and any and all matters arising therefrom, including, but not limited to, the Pueblo's jurisdiction to impose its gross receipts and other taxes on such business, and to the jurisdiction of the Tribal Court of the Pueblo with respect to any dispute that may arise between the applicant and any other person or entity out of or in relation to the applicant's business or other activities within Pueblo Lands. A Business Licensee's refusal to accept such terms, as evidenced by, for example, a challenge to such jurisdiction, in any written form, shall constitute grounds for immediate termination of the License.

B. No License issued hereunder shall be transferable to any other person or entity by the original Licensee.

C. No Business required to be licensed hereunder shall be conducted within the boundaries or on the premises of another Business establishment without a separate License.

D. No Person shall be licensed to deal in objects of antiquity, or in objects removed from any historic or prehistoric ruin or monument.

E. A Licensee dealing in jewelry or arts or crafts similar to objects made by members of

federally recognized Indian tribes, but which were not in fact produced by a member of a federally recognized Indian tribe, must prominently display a sign, clearly visible to all patrons of such Business, with black lettering no less than three inches in height, against a white background, reading, "NOT INDIAN-MADE."

F. A License issued hereunder shall be conspicuously displayed in the place of the licensee's Business, if any, or shall be in the licensee's possession while the licensee is engaged in Business activity on Pueblo Lands and shall be displayed to any customer who asks to see it. The Business Specialist may authorize the issuance of licensee identification badges to be displayed by vendors, construction contractors, and other types of licensees and their employees or agents.

G. The Licensee shall be fully responsible for the entire operation of the Business and for the conduct of his or her officers, agents, and employees in relation thereto.

H. No Licensee shall engage in conduct amounting to fraud, misrepresentation or unfair or deceptive trade practices.

I. No Licensee shall conduct its business in a manner that constitutes a breach of the peace or a threat to the health, safety or general welfare of the Pueblo or its members or visitors.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

#### Sec. 17-1-9 Suspension and Revocation of Business Licenses

A. The Business Specialist may revoke or suspend a License issued under this Article, or shall refuse to issue a new or renewed License, for good cause as follows:

1. For any material misstatement of fact in an application for a License, License amendment, or License renewal;
2. For any material misstatement of fact in a record, report, or other document required to be kept and/or filed with the Business Specialist by this Article;
3. For any violation of a License condition;
4. For any violation of this Code, or of any regulation promulgated hereunder, or of any valid order of the Business Specialist; or
5. For failure to pay any applicable tribal tax in the amount and at the time due.

B. The Business Specialist shall provide written notice of intent to revoke or suspend a license by certified mail, return receipt requested, to the last known address of the licensee on the Business Specialist's records. If the Licensee cannot be so served with notice, the Licensee may be served by publication in a newspaper of general circulation on Pueblo Lands once each week for two (2) consecutive weeks. The Licensee shall have ten (10) days from the day the notice was delivered, or from the date of last publication, to show cause in writing why the license should not be revoked or suspended.



C. In the event of an emergency, the Business Specialist may temporarily revoke or suspend a License without prior notice for a period not exceeding thirty (30) days.

D. A Licensee may appeal a License revocation or suspension, or a refusal by the Business Specialist to issue a License, by filing a civil action for review of the decision of the Business Specialist in the Tribal Court. Such action shall be filed in the same manner as any civil action in the Tribal Court and shall name the Business Specialist as the defendant. The sovereign immunity of the Pueblo shall not be a defense to any such action. The Court shall uphold the challenged action of the Business Specialist unless it finds that the Business Specialist acted arbitrarily or capriciously, or abused his discretion, or acted contrary to Pueblo law. The Court may not in any event award any damages against the Pueblo or the Business Specialist.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

#### Sec. 17-1-10 Civil Offenses

It shall be a civil offense for any Person subject to these licensing requirements to conduct Business within Pueblo Lands without first obtaining a Business License, or to conduct such Business after such person's License has been suspended or revoked, or for more than 15 days after a License has expired, or to conduct Business in a manner not authorized by the License, or to violate any of the terms or conditions of the License, this Code, or the regulations adopted hereunder. The Business Specialist may institute a civil action in the Tribal Court against any Person alleged to have acted in violation of this Article.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

#### Sec. 17-1-11 Penalties

A Person found by the Tribal Court to have conducted Business on Pueblo Lands without a valid Business License, or otherwise in violation of the provisions of this Article, shall be assessed a civil penalty in the amount of no less than \$250.00 for each day that such violation is found to have occurred, up to a maximum of \$5,000, plus costs. The Tribal Court may also, in its discretion, order forfeiture of goods offered by such Person for sale in violation of the provisions of this Article.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

### **ARTICLE 2 - COMMERCIAL CODE - *Reserved* -**

### **ARTICLE 3- LIQUOR CODE**

#### Sec. 17-3-1 Findings

The Tribal Council finds as follows:

A. The introduction, possession and sale of alcoholic beverages on the Santa Ana Indian

Reservation has, for a long time, been clearly recognized as a matter of special concern to the Pueblo and its members and to the United States; and

B. Under federal law and New Mexico state law, and as a matter of inherent Tribal sovereignty, the question of when and to what extent alcoholic beverages may be introduced into and sold or consumed within the Santa Ana Indian Reservation is to be decided by the governing body of the Tribe; and

C. It is desirable that the Tribal Council legislate comprehensively on the subject of the sale and possession of alcoholic beverages within the Santa Ana Indian Reservation both to establish a consistent and reasonable Tribal policy on this important subject, as well as to facilitate economic development projects within the Santa Ana Indian Reservation that may involve outlets for the sale and consumption of alcoholic beverages; and

D. It is the policy of the Tribal Council that the introduction, sale and consumption of alcoholic beverages within the Santa Ana Indian Reservation be carefully regulated so as to protect the public health, safety and welfare, and that licensees be made fully accountable for violations of conditions of their licenses and the consequences thereof.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

#### Sec. 17-3-2 Definitions

As used in this Article, the following words shall have the following meanings:

A. "Council" means the Tribal Council of the Pueblo of Santa Ana.

B. "Development Area" means those lands within the Santa Ana Indian Reservation and that are situated west of the Rio Grande and south of the Rio Jemez, but not including any lands within the boundaries of the Santa Ana Pueblo Grant as confirmed by Congress by the Act of February 9, 1869, c. 26, 15 Stat. 438 (provided however, that if such term is more specifically defined in a planning or zoning statute or ordinance adopted by the Tribal Council, or in any regulations issued under the authority of any such duly adopted planning or zoning statute or ordinance, such definition shall supersede and control the definition of such term set forth herein).

C. "Governor" means the Governor of the Pueblo of Santa Ana.

D. "Licensed Premises" means the location within the Santa Ana Indian Reservation at which a licensee is permitted to sell and allow the consumption of alcoholic beverages, and may, if requested by the applicant and adopted by the Governor, include any related or associated facilities under the control of the licensee, or within which the licensee is otherwise authorized to conduct business (but subject to any conditions or limitations as to sales within such area that may be imposed by the Governor in issuance of the license).

E. "Licensee" means a person or entity that has been issued a license to sell alcoholic beverages on the licensed premises under the provisions of this Liquor Code.

F. "Liquor" or "Alcoholic Beverage" includes the four varieties of liquor commonly referred to as alcohol, spirits, wine and beer, and all fermented, spirituous, vinous or malt liquors or combinations thereof, mixed liquor, any part of which is fermented, spirituous, vinous, or malt liquor, or any otherwise intoxicating liquid, including every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer and intended for oral consumption.

G. "Liquor Code" means the Santa Ana Pueblo Liquor Code, this Article.

H. "Person" means any natural person, partnership, corporation, joint venture, association, or other legal entity.

I. "Pueblo" or "Tribe" means the Pueblo of Santa Ana.

J. "Sale" or "sell" means any exchange, barter, or other transfer of goods from one person to another for commercial purposes, whether with or without consideration.

K. "Santa Ana Indian Reservation" means all lands within the exterior boundaries of the Santa Ana Indian Reservation, all lands within the exterior boundaries of the El Ranchito Grant and the Santa Ana Pueblo Grant, and all other lands owned by the Pueblo subject to federal law restrictions on alienation or held by the United States for the use and benefit of the Pueblo.

L. "Special Event" means a bona fide special occasion such as a fair, fiesta, show, tournament, contest, meeting, picnic or similar event within the Development Area, sponsored by an established business or organization, lasting no more than three days. A special event may be open to the public or to a designated group, and it may be a one-time event or periodic, provided, however, that such events held more than four times a year by the same business or organization may not be deemed special events for purposes of this Liquor Code, in the discretion of the Governor.

M. "Server" means an individual who sells, serves or dispenses alcoholic beverages for consumption on or off licensed premises, including persons who manage, direct or control the sale or service of alcohol.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

### Sec. 17-3-3 Sovereign Immunity Preserved

Nothing in the Liquor Code shall be construed as a waiver or limitation of the sovereign immunity of the Pueblo.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

### Sec. 17-3-4 Initial Compliance

No person shall be disqualified from being issued a license under the provisions of this Liquor Code, or shall be found to have violated any provision of this Article, solely because such person, having been duly authorized to engage in the sale of alcoholic beverages within the Santa

Ana Indian Reservation under the law as it existed prior to enactment of this Liquor Code, continues to engage in such business without a license issued under the provisions of this Liquor Code after the effective date hereof, so long as such person, within 90 days after such effective date (or within 30 days after receiving written notice from the Pueblo of the enactment of the Liquor Code, whichever is later) submits an application for such license in compliance with the provisions of this Liquor Code, and a license is thereafter issued in due course; provided, however, that upon the issuance of a license under the provisions of this Liquor Code to any person or entity, or upon the rejection of an application for such license by any person or entity, no license issued by the State of New Mexico or issued under the provisions of any prior law of the Pueblo that is held by such person or entity, or that purports to authorize the possession, sale or consumption of alcoholic beverages on premises covered by a license issued (or a license application rejected) under the provisions of this Liquor Code, shall have any further validity or effect within the Santa Ana Indian Reservation.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

#### Sec. 17-3-5 Severability

In the event any provision of this Liquor Code is held invalid or unenforceable by any court of competent jurisdiction, the remainder of the Code shall continue in full force and effect, notwithstanding the invalidity or unenforceability of such provision, to the fullest extent practicable.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

#### Sec. 17-3-6 Prohibition

The sale, introduction for sale, purchase, or other dealing in alcoholic beverages, except as is specifically authorized by the Liquor Code, is prohibited within the Santa Ana Indian Reservation.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

#### Sec. 17-3-7 Possession for Personal Use

A. Except as provided in subsection B of this section, possession of alcoholic beverages for personal use shall be lawful within the Santa Ana Indian Reservation only if such alcoholic beverages were lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off the Santa Ana Indian Reservation, and are possessed by a person or persons 21 years of age or older. Such possession is otherwise prohibited.

B. It shall be unlawful for any person to possess, including in a residence or vehicle, alcoholic beverages within the outer limits of the village of Tamaya (the Pueblo's traditional village on the north side of the Rio Jemez, at the center of the Santa Ana Pueblo Grant) during feast or any traditional gathering or traditional obligation as declared by the War Chief, Lt. War Chief, the Governor, or Lt. Governor.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996. Amended by Resolution No. 2023-R-36, adopted July 18, 2023.

#### Sec. 17-3-8 Transportation Through Reservation Not Affected

Nothing herein shall pertain to the otherwise lawful transportation of alcoholic beverages through the Santa Ana Indian Reservation by persons remaining upon public highways (or other areas paved for motor vehicles) and where such beverages are not delivered, sold at retail or offered for sale at retail to anyone within the Santa Ana Indian Reservation.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

#### Sec. 17-3-9 Requirement of Pueblo License

No person shall sell any alcoholic beverage within the Santa Ana Indian Reservation at retail, or offer any such beverage for sale at retail, unless such person holds a license issued by the Pueblo under the provisions of this Article.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

#### Sec. 17-3-10 All Sales for Personal Use

No person licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall sell any such beverage for resale, but all such sales shall be for the personal use of the purchaser. Nothing herein shall prohibit a duly licensed wholesale dealer in alcoholic beverages from selling and delivering such beverages to properly licensed retailers within the Santa Ana Indian Reservation, so long as such sales and deliveries are otherwise in conformity with the laws of the State of New Mexico and this Liquor Code.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

#### Sec. 17-3-11 Package Sales and Sales of Liquor by the Drink Permitted

Sales of alcoholic beverages on the Santa Ana Indian Reservation may be in package form or for consumption on the premises, or both, so long as the seller is properly licensed by the Pueblo to make sales of that type. No seller of alcoholic beverages shall permit any person to bring onto premises where liquor by the drink is authorized to be sold any alcoholic beverages purchased elsewhere, unless such person is otherwise licensed to possess or distribute such beverages on such premises, except that a restaurant holding a premises license may allow a customer who is ordering a meal, and who is legally entitled to consume alcoholic beverages, to bring onto the premises one or more bottles of wine that were legally acquired from a New Mexico licensed retailer or wholesaler (but not to exceed one bottle per person at the table), for consumption with such customer's meal, provided that any such bottle is opened by an employee of the restaurant who is legally entitled to serve alcoholic beverages, and the restaurant may charge a corkage fee for each such bottle opened.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 14-R-28, adopted June 26, 2014; amended by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

### Sec. 17-3-12 No Sales to Minors

No alcoholic beverages may be sold within the Santa Ana Indian Reservation to persons under the age of 21 years.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

### Sec. 17-3-13 Hours and Days of Sale

Alcoholic beverages may be sold, offered for sale or consumed on licensed premises within the Santa Ana Indian Reservation at such hours as are established by the Licensee, but provided that in no event shall any such sales or consumption occur between the hours of 2:00 a.m. and 7:00 a.m. on any day.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 01-R-16, adopted May 31, 2001; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

### Sec. 17-3-14 Other Prohibitions on Sales

The Tribal Council may, by duly enacted resolution, establish other days on which or times at which sales or consumption of alcoholic beverages are not permitted within the Santa Ana Indian Reservation. The Council shall give notice of any such enactment promptly to all licensees within the Santa Ana Indian Reservation. In addition, the Governor of the Pueblo may, in the event of a bona fide emergency, and by written order, prohibit the sale of any alcoholic beverages within the Santa Ana Indian Reservation for a period of time not to exceed 48 hours. The Governor shall give prompt notice of such emergency order to all licensees within the Santa Ana Indian Reservation. No such emergency order may extend beyond 48 hours, unless during that time the Tribal Council meets and determines that the emergency requires a further extension of such order.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

### Sec. 17-3-15 Location of Sales, Consumption

No person licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall make such sales except at the licensed premises specifically designated in such license. No person holding a premises license shall permit consumption of alcoholic beverages purchased from such licensee to occur off of the licensed premises; except that nothing herein shall prohibit a premises licensee from permitting a customer who has purchased a bottle of wine with a meal, but only partially consumed the contents of such bottle, from taking the partially consumed bottle off of the premises, after such bottle has been recorked by the licensee and placed in a sealed bag, to which a receipt for the purchase of the bottle has been affixed.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

### Sec. 17-3-16 Sales to be Made by Adults

A. No person shall be employed as a server at a licensed premises unless within 30 days after such person's employment such person has obtained alcohol server training equivalent to that required under the laws of the State of New Mexico.

B. No person shall be employed to sell, serve or accept payment for any sale of alcoholic beverages, or to oversee or direct or have any other involvement in any such sale, within the Santa Ana Indian Reservation, who is less than 21 years of age, except that a premises licensee that operates a restaurant or other facility that is held out to the public as a place where meals are prepared and served may employ persons 19 years of age or older to sell or serve alcoholic beverages to persons who are also ordering food, provided that no person under the age of 21 shall be employed as a bartender by any licensee within Santa Ana Indian Reservation.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

### Sec. 17-3-17 All Sales Cash

No licensee shall make any sale of any alcoholic beverages within the Santa Ana Indian Reservation without receiving payment therefor by cash, check, credit card, cash equivalent (such as gaming chips) or voucher issued by the licensee and specifically intended to be redeemable for alcoholic beverages, at or about the time the sale is made; provided, that nothing herein shall preclude a licensee from receiving a delivery of alcoholic beverages from a duly authorized wholesaler where arrangements have been made to pay for such delivery at a different time; and provided further that nothing herein shall preclude a licensee from allowing a customer to purchase more than one alcoholic beverage in sequence, and to pay for all such purchases at the conclusion thereof, so long as payment is made in full before the customer has left the licensed premises; and provided further that nothing herein shall prevent a licensee from distributing alcoholic beverages to customers without charge, so long as such distribution is not otherwise in violation of any provision of this Liquor Code.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

### Sec. 17-3-18 Requirement of License

Any person who sells, offers for sale, stores or possesses for commercial purposes, or maintains premises for the consumption of alcoholic beverages within the Santa Ana Indian Reservation, must be duly licensed under the provisions of this Liquor Code.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

### Sec. 17-3-19 Classes of Licenses

The following types or classes of licenses for the sale or distribution of alcoholic beverages within the Santa Ana Indian Reservation shall be permitted:

A. Package license, which shall authorize the licensee to store, possess, sell and offer for sale alcoholic beverages in unopened containers, or in containers that may only be opened by employees of the licensee, for consumption only off the licensed premises.

B. Premises license, which shall authorize the licensee to store, possess and sell alcoholic beverages for consumption on the licensed premises, and to permit such consumption on the licensed premises, provided that such license when held by an inn or hotel shall also permit the licensee to stock any individual guest room with alcoholic beverages contained in a compartment available to the registered guest to whom such room is rented and who is 21 years of age or older; and provided further that a premises licensee may allow a patron who has purchased a bottle of wine with a meal, but who has not consumed all of the contents of such bottle, to leave the premises with the partially filled bottle, after the bottle has been recorded and placed in a sealed bag by the licensee, with a receipt showing the customer's payment for the bottle attached to the bag.

C. Special event license, which shall authorize the licensee to possess, distribute, sell and offer for sale alcoholic beverages for consumption only on the licensed premises, and to permit such consumption, but only for a bona fide special event, and only during the period or periods specified in such license, which period or periods shall be limited to the periods during which the special event is occurring and from beginning to end shall not exceed 72 hours.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

#### Sec. 17-3-20 Qualifications for License

A. No person shall be entitled to be issued a license under the provisions of this Liquor Code who has previously been the subject of any proceeding resulting in the revocation or the denial of a renewal of any license for the sale of alcoholic beverages issued by the Pueblo or by any state or other jurisdiction, or who has been convicted of any felony in any jurisdiction involving theft, corruption, dishonesty or embezzlement, or who has not at the time the application for license is submitted attained the age of 21 years, or who is otherwise determined by the Pueblo to be unfit to be licensed to sell alcoholic beverages, or whose spouse is a person not qualified to hold a license under the provisions of this section.

B. No partnership or corporation shall be entitled to be issued a license under the provisions of this Liquor Code if any individual occupying any management or supervisory position within such corporation or partnership, or who sits on the management committee or board of directors or trustees thereof, or who holds or controls a financial interest of ten percent or more in such partnership or corporation, is a person who would not be entitled to be issued a license under the provisions of this section.

C. No person shall be entitled to be issued a package or premises license hereunder unless such person has, by virtue of an approved lease or other valid interest in lands within the Santa Ana Indian Reservation, lawful entitlement to engage in a business within the Development Area with which such license would be compatible, and can demonstrate that such person is otherwise capable of complying with all of the requirements imposed on licensees by this Liquor Code.

D. No application for a package or premises license shall be issued for any licensed



premises outside of the Development Area.

E. Notwithstanding anything in this section to the contrary, the Pueblo and its agencies, programs and enterprises shall be entitled to be issued licenses hereunder in appropriate circumstances, provided that all other provisions of this Liquor Code are complied with.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

**Sec. 17-3-21 Package and Premises License Application; Procedure; Fees**

A. Every person seeking a package or premises license under the provisions of this Liquor Code (other than the Pueblo or any of its agencies, programs or enterprises) shall submit to the Pueblo's Tribal Administrator, or such other person as the Governor may designate to handle such matters (hereinafter referred to as "Liquor License Administrator") a written application, under oath, in the form prescribed by and containing the information required by this section.

B. If the applicant is a natural person, the application shall contain, at a minimum, all of the following information:

1. The full legal name of the applicant, plus any other names under which the applicant has been known or done business during the previous 20 years, and the applicant's date and place of birth, as shown by a certified copy of the applicant's birth certificate.

2. The applicant's current legal residence address and business address, if any, and every residence address that the applicant has maintained during the previous ten years, with the dates during which each such address was current.

3. The trade name, business address and description of every business in which the applicant has engaged or had any interest (other than stock ownership or partnership interest amounting to less than five percent of total capital) during the previous ten years, and the dates during which the applicant engaged in or held an interest in any such business.

4. A listing of every other jurisdiction in which the applicant has ever applied for a license to sell or distribute alcoholic beverages, the date on which each such application was filed, the name of the regulatory agency with which the application was filed, the action taken on each such application, and if any such license was issued, the dates during which it remained in effect, and as to each such license a statement whether any action was ever taken by the regulatory body to suspend or revoke such license, with full dates and details of any such incident.

5. A listing of every crime with which the applicant has ever been charged, other than routine traffic offenses (but including any charge of driving while intoxicated or the like), giving as to each the date on which the charge was made, the location, the jurisdiction, the court in which the matter was heard, and the outcome or ultimate disposition thereof.

6. The name and address of every person or entity holding any security interest in any of the assets of the business to be conducted by the applicant, or in any of the proceeds of such business.

7. A detailed plat of the business premises within the Development Area, including the floor plans of any structure and the details of any exterior areas intended to be part of the licensed premises, together with evidence of the applicant's right to conduct business on such premises.

8. A detailed description of the business conducted or intended to be conducted on the licensed premises and including (but not limited to) hours of operation and number of employees.

9. The type(s) of license(s) requested.

C. If the applicant is a corporation, the corporation, each officer of the corporation and every person holding 10% or more of the outstanding stock in the corporation shall submit an application complying with the provisions of paragraph B of this section, and in addition, the applicant shall also submit the following:

1. A certified copy of its Articles of Incorporation and Bylaws.

2. The names and addresses of all officers and directors and those stockholders owning 5% or more of the voting stock of the corporation and the amount of stock held by each such stockholder.

3. The name of the resident agent of the corporation who would be authorized to accept service of process, including orders and notices issued by the Pueblo, and who will have principal supervisory responsibility for the business to be conducted on the licensed premises.

4. Such additional information regarding the corporation as the Liquor License Administrator may require to assure a full disclosure of the corporation's structure and financial responsibility.

D. If the applicant is a partnership, the partnership, the managing partner and every partner having an interest amounting to 10% or more of the total equity interest in the partnership shall submit applicants complying with the provisions of paragraph B of this section, and in addition, the applicant shall submit the following:

1. A certified copy of the Partnership Agreement.

2. The names and addresses of all general partners and of all limited partners contributing 10% or more of the total value of contributions made to the limited partnership or who are entitled to 10% or more of any distributions of the limited partnership.

3. The name and address of the partner, or other agent of the partnership, authorized to accept service of process, including orders and notices issued by the Pueblo, and who will have principal supervisory responsibility for the business to be conducted in the licensed premises.

4. Such additional information regarding the partnership as the Liquor License Administrator may require to assure a full disclosure of the partnership's structure and financial responsibility.

E. Every applicant who is a natural person, and every person required by paragraphs C or D of this section to comply with the provisions of paragraph B, shall also submit with the application a complete set of fingerprints, taken under the supervision of and certified to by an officer of an authorized law enforcement agency located within the State of New Mexico.

F. Every applicant for either a package license or a premises license shall submit with the completed license application a non-refundable license processing fee, in the amount set forth below:

Package license	\$ 5,000.00
Premises license	\$ 1,000.00

In addition, each applicant shall pay a fee to cover the cost of a background investigation of each individual for whom such investigation must be undertaken in connection with the application, in an amount to be set by the Liquor License Administrator from time to time.

G. Upon receiving a completed license application together with the required fee, the Liquor License Administrator shall cause a background investigation to be performed of the applicant, to determine whether the applicant is qualified to be licensed under the provisions of this Liquor Code. Upon the written recommendation of the Liquor License Administrator (if requested by the applicant), the Governor may, in his discretion, issue a preliminary license to the applicant effective for a period of no more than 90 days, but which shall be renewable for one additional period of 90 days in the event the background investigation cannot be completed within the first 90-day period; provided, however, that in no event shall the issuance of a preliminary license, or the renewal of such license for an additional 90-day period, entitle the applicant to favorable consideration with respect to the application for a package or premises license.

H. The Pueblo or any of its agencies, programs or enterprises may apply for a package or premises license by submitting an application to the Liquor License Administrator identifying the applicant, describing in detail the purpose of the license, including a detailed description of the proposed licensed premises, and including the appropriate fee as set forth in Paragraph F of this section.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

### Sec. 17-3-22 Issuance of License

A. The Liquor License Administrator shall, after reviewing all of the information submitted by the applicant or revealed by the background investigation, submit a report to the Governor recommending either approval or denial of the application for the license, and stating the reasons for such recommendation.

B. Upon review of the recommendation of the Liquor License Administrator, if the Governor finds that the applicant satisfies the requirements of Sec. 17-3-20 of this Article, the Governor shall issue the license, authorizing the applicant to engage in sales of alcoholic beverages within the Santa Ana Indian Reservation as permitted by the class of license applied for, and specifying in detail the licensed premises where such sales are permitted (which shall be within the

Development Area), but subject also to all the terms and conditions of this Liquor Code, and to such other appropriate conditions, not inconsistent with the provisions of this Liquor Code, as the Governor may deem reasonable and necessary under the circumstances.

C. In the event the Governor concludes, on the basis of the Liquor License Administrator's report, that the applicant does not satisfy the requirements of Sec. 17-3-20 of this Article, the Governor shall issue a notice denying the application, and explaining the basis for such denial.

D. Any applicant whose application is denied shall have the right to appeal such denial, by filing a Notice of Appeal with the Office of the Governor and with the Santa Ana Tribal Court, within 30 days of the date of receipt of the Notice of Denial. Upon receiving a copy of a Notice of Appeal, the Governor's office shall prepare a copy of the entire file pertaining to the application and shall transmit it to the Tribal Court, with a copy to the applicant. The Pueblo, represented by the Pueblo's attorney, shall appear in the action in the Tribal Court. The proceedings in the Tribal Court shall be based upon the record that was before the Liquor License Administrator and the Governor, except that the applicant may, upon a showing of good cause, be permitted to submit additional evidence to rebut or explain information relied on by the Governor for his denial of the application that was not obtained from the applicant. The Tribal Court shall affirm the Governor's decision unless it finds that the Governor acted arbitrarily or capriciously or otherwise abused his discretion in making his determination.

E. Any party that is aggrieved by the decision of the Tribal Court may petition the Tribal Council to review the Tribal Court decision, in writing, within 30 days after issuance of the Tribal Court decision. The petition shall set forth the specific grounds on which the petitioner claims the Tribal Court erred in its decision, and why its decision should be reviewed, and shall be served on the Governor and all parties. The prevailing party may submit a response to the petition within 15 days of service of the petition. The Governor shall place the petition on the agenda of the next Tribal Council meeting after service of the response (or the expiration of the 15-day period, if no response is filed), and the Tribal Council shall, at such meeting, decide whether to hear the petition. In the event the Tribal Council decides to hear the petition, the Governor shall notify all parties of that decision, and of the date on which the Tribal Council shall consider the matter. The Governor shall provide each Tribal Council member with a copy of the Tribal Court decision, the petition for Tribal Council review and the response, if any, and the complete record before the Tribal Court shall be available for inspection by any Tribal Council member. The Tribal Council shall hear each party's representative present its arguments and shall decide by majority vote whether a license should be issued to the applicant. The Tribal Council's decision shall be final and nonreviewable.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

#### Sec. 17-3-23 Term; Renewal; Fee

A. Each package or premises license issued hereunder shall have a term of one (1) year from the date of issuance, provided that such license shall be renewable for additional periods of one year each by any licensee who has complied fully with the terms and provisions of the license and of this Liquor Code during the term of the license, and who remains fully qualified to be licensed under the provisions of Sec. 17-3-20 of this Article, upon payment to the Pueblo of a license renewal fee in the amount of the initial application fee, and submission of an application for

renewal on a form specified by the Liquor License Administrator, no less than thirty (30) days prior to the expiration date of the license. The renewal form shall require the applicant to note any changes in the information submitted with the original license application. The failure to submit a timely renewal application, with the required fee, may subject the licensee to a late charge of \$500.00. If the renewal application is not submitted prior to expiration of the license, the Liquor License Administrator may treat the license as having expired and may require the licensee to file a new application in compliance with Sec. 17-3-21 of this Article.

B. Upon receipt of an application for renewal of a license, and a recommendation of the Liquor License Administrator, the Governor shall determine whether the licensee has conducted its operations in compliance with the provisions of this Code and is otherwise qualified to be licensed. In the event the Governor receives information indicating that the licensee has not complied with the provisions of this Code or is otherwise not qualified to be licensed hereunder, the Governor shall deny the application for renewal, giving the licensee written notice thereof with a statement of the reasons for such denial.

C. A licensee may appeal a denial of an application for renewal of its license, by filing a Notice of Appeal with the Office of the Governor and with the Santa Ana Tribal Court, within 30 days of receipt of the Notice of Denial of the application for renewal. Upon receiving the Notice of Appeal, the Governor's office shall prepare a complete copy of the entire file pertaining to the application and shall transmit it to the Tribal Court, with a copy to the applicant. The Pueblo, represented by the Pueblo's attorney, shall appear in the action in the Tribal Court. The proceedings in the Tribal Court shall be based upon the information submitted to the Governor by the licensee and any other information obtained by the Governor in the course of processing the application, except that the licensee shall be permitted to submit additional evidence to rebut or explain information relied on by the Governor for his denial of the application that was not obtained from the licensee. The licensee may apply to the Tribal Court for an order maintaining the license in effect during the pendency of the appeal, but in the absence of such order, the license shall expire at the end of its term. The Tribal Court shall affirm the Governor's decision unless it finds that the Governor acted arbitrarily or capriciously or otherwise abused his discretion in making his determination.

D. Any party that is aggrieved by the decision of the Tribal Court may petition the Tribal Council to review the Tribal Court decision, in writing, within 30 days after issuance of the Tribal Court decision. The petition shall set forth the specific grounds on which the petitioner claims the Tribal Court erred in its decision, and why its decision should be reviewed, and shall be served on the Governor and all parties. The prevailing party may submit a response to the petition within 15 days of service of the petition. The Governor shall place the petition on the agenda of the next Tribal Council meeting after service of the response (or the expiration of the 15-day period, if no response is filed), and the Tribal Council shall, at such meeting, decide whether to hear the petition. In the event the Tribal Council decides to hear the petition, the Governor shall notify all parties of that decision, and of the date on which the Tribal Council shall consider the matter. The Governor shall provide each Tribal Council member with a copy of the Tribal Court decision, the petition for Tribal Council review and the response, if any, and the complete record before the Tribal Court shall be available for inspection by any Tribal Council member. The Tribal Council shall hear each party's representative present its argument and shall decide by majority vote whether the license should be renewed. The Tribal Council's decision shall be final and nonreviewable.

Sec. 17-3-24 Conditions of License

No licensee shall have any property interest in any license issued under the provisions of this Liquor Code, and every such license shall be deemed to confer a privilege, revocable by the Pueblo in accordance with the provisions of this Article. The continued validity of every package and premises license issued hereunder shall be dependent upon the following conditions:

A. Every representation made by the licensee and any of its officers, directors, shareholders, partners or other persons required to submit information in support of the application, shall have been true at the time such information was submitted, and shall continue to be true, except to the extent the licensee advises the Liquor License Administrator in writing of any change in any such information, and notwithstanding any such change, the licensee shall continue to be qualified to be licensed under the provisions of this Liquor Code.

B. The licensee shall at all times conduct its business on the Santa Ana Indian Reservation in full compliance with the provisions of this Liquor Code and with the other laws of the Pueblo.

C. The licensee shall maintain in force, public liability insurance covering the licensed premises, insuring the licensee and the Pueblo against any claims, losses or liability whatsoever for any acts or omissions of the licensee or of any business invitee on the licensed premises resulting in injury, loss or damage to any other party, with coverage limits of at least \$1 million per injured person, and the Liquor License Administrator shall at all times have written evidence of the continued existence of such policy of insurance.

D. The licensee shall continue to have authority to engage in business within the Development Area, and shall have paid all required rentals, assessments, taxes, or other payments due the Pueblo.

E. The business conducted on the licensed premises shall be conducted by the licensee or its employees directly, and shall not be conducted by any lessee, sublessee, assignee or other transferee, nor shall any license or any interest therein be sold, assigned, leased or otherwise transferred to any other person.

F. All alcoholic beverages sold on the licensed premises shall have been obtained from a New Mexico licensed wholesaler.

G. The licensee shall submit to the jurisdiction of the Tribal Court of the Pueblo with respect to any action brought by the Pueblo or any of its agencies or officials to enforce the provisions of this Liquor Code, or with respect to any action arising out of the licensee's sale or service of alcoholic beverages on the licensed premises.

Sec. 17-3-25 Sanctions for Violation of License

A. Upon determining that any person licensed by the Pueblo to sell alcoholic beverages under the provisions of this Article is for any reason no longer qualified to hold such license under the provisions of Sec. 17-3-20 hereof, or has violated any of the conditions set forth in Sec. 17-3-24, the Governor shall immediately serve written notice upon such licensee directing that he show cause within ten (10) calendar days why his license should not be suspended or revoked, or a fine imposed. The notice shall specify the precise grounds relied upon and the action proposed.

B. If the licensee fails to respond to such notice within ten (10) calendar days of service of such notice, the Governor shall issue an order suspending the license for such period as the Governor deems appropriate, or revoking the license, effective immediately, or imposing a fine, in such amount as the Governor deems reasonable. If the licensee, within the 10-day period, files with the Office of the Governor a written response and request for a hearing before the Santa Ana Tribal Court, such hearing shall be set no later than thirty (30) calendar days after receipt of such request.

C. At the hearing, the licensee, who may be represented by counsel, shall present evidence and argument directed at the issue of whether or not the asserted grounds for the proposed action are in fact true, and whether such grounds justify such action. The Pueblo may present such other evidence as it deems appropriate.

D. The court after considering all of the evidence and arguments shall issue a written decision either upholding the proposed action of the Governor, modifying such action by imposing some lesser penalty, or ruling in favor of the licensee, and such decision shall be final and conclusive.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-26 Special Event License

A. Any person authorized to conduct business within the Development Area, or any established organization (including any agency, department or enterprise of the Pueblo) that includes any member of the Pueblo and that has authority to conduct any activities within the Santa Ana Indian Reservation, that is not a licensee hereunder and that has not had an application for a license rejected, may apply to the Liquor License Administrator for a special event license, which shall entitle the applicant to distribute alcoholic beverages, whether or not for consideration, in connection with a bona fide special event to be held by the applicant within the Development Area. Any such application must be filed in writing, in a form prescribed by the Liquor License Administrator, no later than ten (10) calendar days prior to the event, and must be accompanied by a fee in an amount set by the Liquor License Administrator from time to time, and must contain at least the following information:

1. The exact days and times during which the event will occur (provided, that in no event shall any license be in effect for a period exceeding 72 hours, from the beginning of the first day of the event until the end of the last day);

2. The precise location within the Development Area where the event will occur, and where alcoholic beverages will be distributed;

3. The nature and purpose of the event, and the identity or categories of persons who are invited to participate;

4. The nature of any food and beverages to be distributed, and the manner in which such distribution shall occur;

5. Details of all provisions made by the applicant for sanitation, security and other measures to protect the health and welfare of participants at the event;

6. Certification that the event will be covered by a policy of public liability insurance as described in Sec. 17-3-24(C) of this Liquor Code, that includes the Pueblo as a co-insured, or that the applicant will indemnify the Pueblo and hold it harmless from any claims, demands, liability or expense as a result of the act or omission of any person in connection with the special event , in which latter case the Liquor License Administrator or Governor may require a bond to assure compliance with such indemnification provision.

7. Any other information required by the Liquor License Administrator relative to the event.

B. The Liquor License Administrator, or the Governor, shall act to approve or reject the application no later than three days following submission of the application with the required fee. If the application is approved, the Liquor License Administrator or the Governor shall issue the license, which shall specify the hours during which and the premises within which sales, distribution and consumption of alcoholic beverages may occur. If any application is rejected, the rejection shall indicate the grounds therefor, and the applicant shall be entitled to file a new application correcting any deficiencies or problems found in the original application that warranted the rejection.

C. Alcoholic beverages may be sold or distributed pursuant to a special event license only at the location and during the hours specified in such license, in connection with the special event, only to participants in such special event, and only for consumption on the premises described in the license. Such sales or distribution must comply with any conditions imposed by the license, and with all other applicable provisions of this Liquor Code. All such alcoholic beverages must have been obtained from a New Mexico licensed wholesaler or retailer.



Sec. 17-3-27 Display of License

Every person licensed by the Pueblo to sell alcoholic beverages within the Santa Ana Indian Reservation shall prominently display the license on the licensed premises during hours of operation.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-28 Purchase from or Sale to Unauthorized Persons

Within the Santa Ana Indian Reservation, no person shall purchase any alcoholic beverage at retail except from a person licensed by the Pueblo under the provisions of this title; no person except a person licensed by the Pueblo under the provisions of this title shall sell any alcoholic beverage at retail; nor shall any person sell any alcoholic beverage for resale to any person other than a person properly licensed by the Pueblo under the provisions of this title.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-29 Sale to Minors

A. No person shall sell or serve any alcoholic beverage to any person under the age of 21 years.

B. It shall be a defense to an alleged violation of this Section that the purchaser presented to the seller or server an apparently valid identification document showing the purchaser's age to be 21 years or older, provided that the seller or server, as the case may be, had no actual or constructive knowledge of the falsity of the identification document, and relied in good faith on its apparent validity.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

Sec. 17-3-30 Purchase by Minor

No person under the age of 21 years shall purchase, attempt to purchase or possess any alcoholic beverage.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-31 Sale to Person under the Influence of Alcohol

No person shall sell any alcoholic beverage to a person who the seller has reason to believe is intoxicated or who the seller has reason to believe intends to provide such alcoholic beverage to an intoxicated person.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

Sec. 17-3-32 Purchase by Person under the Influence of Alcohol

No intoxicated person shall purchase any alcoholic beverage.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 05-R-54, adopted November 15, 2005, effective April 7, 2006.

Sec. 17-3-33 Drinking in Public Places

No person shall consume any alcoholic beverage in any public place within the Santa Ana Indian Reservation except on premises licensed by the Pueblo for the sale of alcoholic beverages by the drink.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-34 Bringing Liquor onto Licensed Premises

No person shall bring any alcoholic beverage for personal consumption onto any premises within the Santa Ana Indian Reservation where liquor is authorized to be sold by the drink, unless such beverage was purchased on such premises, or unless the possession or distribution of such beverages on such premises is otherwise permitted under the provisions of this Liquor Code.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

Sec. 17-3-35 Open Containers Prohibited

No person shall have an open container of any alcoholic beverage in a public place, other than on premises licensed for the sale of alcoholic beverages by the drink, or in any automobile, whether moving or standing still. This Section shall not apply to empty containers such as aluminum cans or glass bottles collected for recycling.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-36 Use of False or Altered Identification

No person shall purchase or attempt to purchase any alcoholic beverage by the use of any false or altered identification document that falsely purports to show the individual to be 21 years of age or older.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

Sec. 17-3-37 Penalties

A. Any person convicted of committing any violation of this Article shall be subject to punishment of up to one (1) year imprisonment or a fine not to exceed Five Thousand Dollars (\$5,000.00), or to both such imprisonment and fine.

B. Any person not a member of the Pueblo, upon committing any violation of any provision of this Article, may be subject to a civil action for trespass, and upon having been determined by the court to have committed the alleged violation, shall be found to have trespassed upon the lands of

the Pueblo, and shall be assessed such damages as the court deems appropriate in the circumstances.

C. Any person suspected of having violated any provision of this Article shall, in addition to any other penalty imposed hereunder, be required to surrender any alcoholic beverages in such person's possession to the officer making the arrest or issuing the complaint.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996, effective August 7, 1996.

#### Sec. 17-3-38 Jurisdiction

Any and all actions, whether civil or criminal, arising from or pertaining to alleged violations of this title or any duty imposed hereby, or seeking any relief against the Pueblo or any officer or employee of the Pueblo with respect to any matter addressed by this Liquor Code, shall be brought in the Tribal Court of the Pueblo, which court shall have exclusive jurisdiction thereof. No waiver of this provision shall be implied by any court, and no such waiver shall be valid unless expressly set forth in a written resolution of the Tribal Council.

Enacted by Resolution Number 96-R-08, adopted May 2, 1996; amended by Resolution Number 14-R-28, adopted June 26, 2014, ratified by Resolution Number 2015-R-09, adopted June 11, 2015, effective September 9, 2015.

### **ARTICLE 4 - GAMING CODE**

#### Sec. 17-4-1 Findings

The Pueblo has the right to regulate Class I and Class II gaming, as those terms are defined in the Act, on Pueblo Lands and may jointly regulate Class III gaming, as that term is defined in the Act, pursuant to a Compact with the state and the Council finds that it is in the best interest of the Pueblo to enact an ordinance that authorizes and regulates all gaming on Pueblo Lands consistent with the Act.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992, adopted by NIGC on August 9, 1994.

#### Sec. 17-4-2 Definitions

For purposes of this Code:

- A. "Act" means the Indian Gaming Regulatory Act, Pub.L. No. 100-497, 25 U.S.C. §§ 2701-2721, and applicable regulations promulgated under the Act.
- B. "Class I gaming" means Class I gaming as defined in the Act.
- C. "Class II gaming" means Class II gaming as defined in the Act.
- D. "Class III gaming" means Class III gaming as defined in the Act.
- E. "Code" means this Gaming Code.

F. "Commission" means the National Indian Gaming Commission established under the act.

G. "Compact" means any Tribal-State Gaming Compact between the Pueblo and the State governing Class III gaming.

H. "Council" means the Pueblo Council, the governing body of the Pueblo of Santa Ana.

I. "Electronic Game of Chance" means a microprocessor-controlled electronic device that allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a token, coin or currency, or by the use of a credit, and which awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash. Game play may be displayed by video facsimile or mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and pay-out, if any.

J. "Gaming Employee" means any natural person employed by a Gaming Enterprise or Management Contractor in any position that involves such person in any gaming activity or with any goods or materials utilized in any gaming activity, including, but not limited to, the following:

1. any person who performs any function directly related to Gaming Devices, gaming supplies or gaming activities;
2. any person whose duties require such person to be present in the area where gaming activities take place during operating hours;
3. any person who handles or accounts for cash utilized in gaming activities;
4. any person involved in security or surveillance activities involving gaming activities; and
5. any person who supervises any of the foregoing persons.

K. "Gaming Device" or "Gaming Equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming.

L. "Gaming Enterprise" means an enterprise owned by the Pueblo for the conduct of the gaming in any gaming facility on Pueblo Lands. The enterprise can be organized as a tribal department, corporation, partnership or joint venture.

M. "Gaming Facility" means the building, location or room in which Class I, Class II, or Class III gaming is conducted on Pueblo Lands.

N. "Gaming Services" means the provision or sale of any goods, services or concessions by contract to the Pueblo, Gaming Enterprise, or Management Contractor in connection with the operation of gaming in a Gaming Facility in an amount in excess of \$10,000 in any one month, except

for professional, legal or accounting services. No contract may be broken up into parts for the purpose of avoiding this definition or any requirement of licensing or certification.

O. "Management Contractor" means any management company engaged by the Pueblo to assist in the management or operation of any Gaming Enterprise.

P. "Net Revenues" means gross revenues of any Gaming Enterprise in all Gaming Facilities less amounts paid out as, or paid for, prizes and operating expenses, but excluding management fees paid to a Management Contractor.

Q. "Non-Gaming Employee" means any natural person employed by a Gaming Enterprise or Management Contractor whose duties are solely related to strictly non-gaming functions, and whose work is unrelated to Gaming Devices and does not require such persons to be in gaming areas during operating hours.

R. "SAGRC" means the Santa Ana Gaming Regulatory Commission established by this Code.

S. "State" means the State of New Mexico, its authorized officials, agents, and representatives.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992; amended by Resolution No. 95-R-12, adopted May 10, 1995; amended by Resolution Number 99-R-42, adopted December 29, 1999, adopted by the NIGC on April 27, 2000.

### Sec. 17-4-3 Purpose

The purpose of this Code is to provide for the regulation of all gaming on Pueblo Lands, to protect the public interest in the integrity of all gaming, to prevent improper or unlawful conduct in gaming, to strengthen tribal self-government, and to promote tribal economic self-sufficiency.

Enacted by Ordinance Number 92-O-04, adopted on December 10, 1992, adopted by NIGC on August 9, 1994.

### Sec. 17-4-4 Nature and Scope of Gaming Activities

#### A. Authorized Gaming Activities

A Gaming Enterprise may operate in its Gaming Facilities any and all forms of Class I and Class II gaming and, subject to the provisions of a Compact, any and all forms of Class III gaming on Pueblo Lands.

#### B. Forms of Payment

All payment for wagers made in gaming conducted by the Gaming Enterprise shall be made by cash, chips, or tokens. The Gaming Enterprise shall not extend credit. Chips or tokens may be purchased using cash or checks.

#### C. Wagering Limitations

Unless set by a Compact, the SAGRC may set by regulation the

maximum wager for Class III gaming.

D. Hours of Operation

A Gaming Enterprise may operate its gaming activities on the hours and days approved by the SAGRC.

E. Prohibition on Minors

No person under the age of 18 shall participate in any gaming; however, minors may be employed in the food, beverage (non-alcoholic), or maintenance service of a Gaming Enterprise.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992, adopted by NIGC on August 9, 1994.

Sec. 17-4-5 Compliance with the Act

This Code shall be construed in a manner that conforms to the Act in all respects, and, if inconsistent with the Act in any manner, the provisions of the Act shall govern.

A. Proprietary Interest

The Pueblo shall have the sole proprietary interest in and responsibility for the conduct of any gaming on Pueblo Lands; however, nothing in this Code shall prevent the Pueblo from entering into a Management Contract for the operation and management of any Gaming Enterprise or Gaming Facility operated by a Gaming Enterprise.

B. Use of Net Revenues

Net Revenues from any Gaming Enterprise shall be used for the following purposes:

1. to fund tribal government operations or programs;
2. to provide for the general welfare of the Pueblo and its members;
3. to promote tribal economic development;
4. to donate to charitable organizations;
5. to help fund operations of local government agencies; or,
6. any other purposes permitted under the Act.

C. Annual Audit

The SAGRC shall require all Gaming Enterprises and Management Contractors to be subject to an annual audit by an independent certified public accountant and to submit copies of

the annual audit to the Commission. All purchasers for supplies, services, or concessions or contracts in excess of \$25,000 annually (except contracts for professional legal or accounting services) of any Gaming Enterprise or Management Contractor shall be included in the annual audit.

#### D. Public Safety Standards

All Gaming Facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety and complies with all applicable health, safety, and environmental standards applicable to or enacted by the Pueblo.

#### E. Licensing and Background Investigations

##### 1. Licensing Requirements

- a. each Gaming Enterprise shall be licensed by the SAGRC.
- b. each Gaming Facility shall be licensed by the SAGRC.
- c. all Gaming Employees shall be licensed by the SAGRC and subject to background investigations.
- d. All Management Contractors, including their principals, or having shareholders in excess of 5% ownership, officers, directors and employees, shall be licensed by the SAGRC and subject to background investigations.
- e. Each Gaming Device and price of Gaming Equipment shall be licensed by the SAGRC and shall be inspected and certified for proper operation at least annually by the SAGRC.
- f. Any person proposing to sell or lease any Gaming Device, Gaming Equipment, or provide Gaming Services to a Gaming Enterprise shall be licensed by the SAGRC and subject to a background investigation before being permitted to sell or lease any Gaming Device or Gaming Equipment or provide any Gaming Services to any Gaming Enterprise, Gaming Facility, or Management Contractor.

##### 2. Licensing Procedures

- a. Each applicant for a license shall submit a completed application and any other information required by the SAGRC. Each application shall be accompanied by the applicant's fingerprint card, two current photographs, and any fees required by the SAGRC. In the event of a corporate applicant, the shareholders having in excess of 5% ownership, officers and directors shall provide the information for applicant. In the event of a Pueblo enterprise, the person in charge of the enterprise shall submit the information required. Each applicant shall be required

to sign and submit a statement in compliance with the Federal Privacy Act of 1974 and to submit a statement or notice regarding false statements as required by the Act.

b. Upon receipt of a completed application and the fees required for the license, the SAGRC shall conduct the necessary background investigation, unless otherwise required by the Act, to ensure the applicant is qualified for a license. Upon completion of the necessary background investigation, the SAGRC shall either issue a license to the applicant and send a copy to the Commission or deny the application. If the application is denied, a statement setting forth the grounds for denial shall be sent to the applicant and the Commission.

c. Any license issued to a Gaming Enterprise, Management Contractor, or Gaming Employee shall be effective for one year from the date of issuance. Any person applying for renewal of a license that has submitted the required application and any other information required by the SAGRC at least 60 days before the expiration of the license may continue to be employed under the expired license until the SAGRC, or Commission if required by the Act, takes final action on the renewal application. Any person renewing a gaming license shall provide updated material and information as requested on the renewal application form but shall not be required to resubmit historical data already provided to the SAGRC.

d. The SAGRC shall require all Gaming Employees to wear identification cards issued by the SAGRC bearing the employee's photograph, first and last name, employee number, signature, and date of expiration.

e. The fees for gaming licenses and background investigations shall be set by the SAGRC from time to time and made available at any time upon request. If the actual costs incurred by the SAGRC for a background investigation exceed the amount deposited by the applicant, those costs may be assessed to the applicant in the discretion of the SAGRC. In such cases, the SAGRC shall submit a detailed billing of the costs and an explanation as to why the excess costs were incurred. Payment in full of any required fee is required before a license is issued.

3. Notwithstanding any other provision of this Sec. 17-4-5(E), each Non-Gaming Employee shall be licensed by the SAGRC, but only a limited investigation shall be required in connection with such licensing. Any initial licensing fee shall be an amount determined by the SAGRC. There shall be a minimal license renewal fee. The license application form shall require only the minimum amount of information needed, as determined by the SAGRC satisfactorily to ascertain the applicant's identity, past employment experience (if any), references and criminal record (if any).

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992; amended by Resolution No. 99-R-42, adopted December 20, 1999, adopted by the NIGC on April 27, 2000.



## Sec. 17-4-6 Standards of Operation and Management

### A. Class I and Class II Gaming

The SAGRC may adopt standards of operation and management for Class I and Class II gaming consistent with the Act and, pending such adoption, may direct a Gaming Enterprise or Management Contractor to comply with the standards as the SAGRC may determine necessary to protect the integrity of Class I and Class II gaming.

### B. Class III Gaming

The technical standards of operation and management for Class III gaming shall be those approved in accordance with a Compact.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992; amended by Resolution No. 95-R-12, adopted May 10, 1995, adopted by NIGC on March 4, 1998.

## Sec. 17-4-7 Exemptions

Social games conducted solely for prizes of minimal value and traditional forms of Indian gaming engaged in by individuals as part of or in connection with tribal ceremonies or celebrations shall not be subject to any of the provisions of this Code.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992; amended by Resolution Number 99-R-36, adopted October 21, 1999, adopted by NIGC on March 4, 1998.

## Sec. 17-4-8 Management Contracts

A. A Gaming Enterprise may enter into a Management Contract with a Management Contractor for the management of the Gaming Enterprise or Gaming Facilities subject to approval of the Council and, if required by the Act, the Commission.

### B. Required Provisions

1. All gaming covered by a Management Contract shall be conducted in accordance with this Code and the Act.

2. The Management Contract shall identify the responsibilities of each party for each identifiable function as set forth in the Act.

3. The Management Contract shall provide for the establishment and maintenance of satisfactory accounting systems and procedures that shall include an adequate system of internal accounting controls and permit the preparation of financial statements in accordance with generally accepted accounting principles.

4. Each Management Contractor shall provide monthly verifiable financial reports to the Pueblo, the SAGRC, and, if required by the Act, the Commission.

5. A Management Contractor shall allow authorized officials of the Pueblo, the SAGRC, or the Commission immediate access to the Gaming Enterprise books and records and any Gaming Facility. These authorized officials shall have the right to verify the daily gross revenues and income from any gaming activity and access to any other gaming-related information deemed appropriate.

6. All management contracts shall provide to the Gaming Enterprise a minimum guaranteed monthly payment in a sum certain to that has preference over the retirement of any development and construction costs.

7. All management contracts shall provide for an agreed upon maximum dollar amount per month of revenues not to exceed \_\_ percent for the recoupment of development and construction costs.

8. No management contract shall be for a term exceeding five (5) years unless upon request of the Council, the Commission authorizes a longer contract term not to exceed seven (7) years.

9. All management contracts shall provide that not more than thirty percent (30%) of the Net Revenues of a Gaming Enterprise shall be paid to the Management Contractor unless a higher percentage, not to exceed forty percent (40%) is authorized by the Commission pursuant to the Act. The balance of the Net Revenues shall be paid to the Treasurer of the Pueblo or Gaming Enterprise as set forth in the management contract.

10. All management contracts shall provide grounds and mechanisms for modifying or terminating the management contract and include a mechanism to resolve disputes between the Gaming Enterprise and Management Contractor, the Management Contractor and customers, and Management Contractor and Gaming Employees.

11. All management contracts shall provide that the assignment of rights and subcontracting under a management contract are not permitted unless authorized by the Council.

12. All changes in the ownership interest in a Management Contractor shall require advance approval of the Council.

13. A management contract shall not transfer or convey any interest in Pueblo Lands unless authorized by federal law.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992; amended by Resolution No. 95-R-12, adopted May 10, 1995, adopted by NIGC on March 4, 1998.

Sec. 17-4-9 Santa Ana Gaming Regulatory Commission

A. Establishment of the SAGRC; Appointment; Terms

There is hereby established a Commission, to be known as the Santa Ana Gaming Regulatory Commission, consisting of three (3) members, who shall be appointed by the Tribal Council for terms of five (5) years each.

B. Compensation

The Council shall establish the compensation of members of the SAGRC.

C. Removal

A SAGRC member may be removed from office before the expiration of his or her term only after receiving a written Notice of Removal, signed by the Governor, setting forth specific grounds showing that such member has abused his position or has engaged in conduct unbecoming an official of the Pueblo; has violated the laws of the Pueblo or of the State of New Mexico or of the United States of America in some respect that casts doubt on the member's fitness to continue in office; or has consistently failed to perform his or her duties as a member of the SAGRC. A member shall have ten (10) days after actual receipt of such notice within which to submit to the Governor's Office a written request for a hearing before the Tribal Council. If no such request is submitted within such period, the member's removal shall automatically take effect on the expiration of the period. If a hearing is requested within the period, it shall be held within fifteen (15) days after the date on which the request was filed with the Office of the Governor. At the hearing before the Tribal Council, the Governor or Officers shall present facts supporting the specifications of misconduct set forth in the Notice of Removal, after which the member may present his or her own case in opposition to the specifications. The presentation to the Council may be through witnesses, documents or argument, as the Governor and the member shall choose, but shall be limited to the issues specified in the Notice of Removal. The member may be represented by counsel. The member shall not be deemed removed from the SAGRC unless the Notice of Removal is upheld by a vote of two-thirds of the members of the Council present and voting; provided that at least eighteen (18) members of the Council must be present at the time of such vote to uphold the member's removal, and the number of Council members voting to uphold or to reject the removal shall be recorded in the official records of the Pueblo.

D. Vacancies

The Tribal Council shall by appointment fill any vacancy that may occur in the membership of the SAGRC, by appointing a member to serve out the unexpired portion of the term of the vacant position.

E. Powers and duties of the SAGRC

The SAGRC shall have the following powers and duties:

### 1. Oversight of Gaming Activity; Inspectors

The SAGRC shall have primary responsibility for overseeing all gaming activity to assure the integrity of gaming activity and shall for that purpose employ inspectors who shall be under the sole supervision of the SAGRC. The inspectors shall have access to all areas of any Gaming Facility at all times. The inspectors shall report to the SAGRC regarding any failure by the Gaming Enterprise or Management Contractor to comply with any of the provisions of this Code and any other applicable laws. All inspectors shall be licensed by the SAGRC and subject to background investigations.

### 2. Investigations; subpoena

The SAGRC may on its own initiative investigate any aspect of the gaming activity to protect the public interest in the integrity of the gaming activity and to prevent improper or unlawful conduct in the course of any gaming activity. The SAGRC may require any Gaming Enterprise or Management Contractor to take any appropriate action deemed necessary to comply with the Code, Act and any other applicable law. The SAGRC may compel any person to appear before it and to provide any information, documents, or other materials that may be in their possession to assist in any such investigation.

### 3. Public safety

The SAGRC shall ensure that the Gaming Enterprise or Management Contractor shall prepare and submit for the review and approval of the SAGRC a satisfactory plan for the protection of the public in any Gaming Facility.

### 4. Review of plans

The SAGRC shall review and approve floor plans and surveillance systems for each Gaming Facility and may confer with other organizations regarding the adequacy of such plans and systems.

### 5. Regulations

The SAGRC shall promulgate any and all regulations it deems necessary or appropriate for the regulation of gaming activity within the Santa Ana Pueblo, so as to fulfill the purposes of this Code, and in particular shall promulgate any and all regulations necessary or appropriate to assure full compliance by the Pueblo and its gaming enterprise with any and all provisions of the Act and of the Compact that is in effect, and all such regulations properly promulgated by the Commission within the scope of its powers granted herein shall have the full force of law within the Pueblo.

### 6. Licenses

The SAGRC may issue, suspend, and revoke licenses in accordance with this Code.

### 7. Standards

The SAGRC shall promulgate, review, approve, and revise the technical standards and rules of each game operated by the Gaming Enterprise or Management Contractor and shall notify the Gaming Enterprise or Management Contractor of the rules and of any change to the rules.

### 8. Health, safety and security standards

The SAGRC shall enforce all health, safety and security standards applicable to the Gaming Facilities. Before opening of any Gaming Facility for gaming activity, the Gaming Enterprise or Management Contractor shall obtain a certificate of compliance from the SAGRC relating to each Gaming Facility. The SAGRC shall issue a certificate of compliance to the Gaming Enterprise upon a determination that the Gaming Facility complies with applicable health, safety and security standards.

9. Penalties and subpoenas

The SAGRC shall be empowered to impose penalties for violations of this Code and to issue subpoenas in furtherance of its duties.

10. Civil and criminal actions

The SAGRC may in the name of the Pueblo bring any civil action or criminal complaint in the courts of the Pueblo, the State or the United States to enforce the provisions of this Code, the Act, or any Compact, or to enjoin or otherwise prevent any violation of this Code, the Act, or an applicable law, occurring on Pueblo Lands.

11. Operating budget

The SAGRC shall adopt an annual operating budget which shall be subject to the approval of the Council. The SAGRC may, in accordance with the budget, employ a staff as it deems necessary to fulfill its responsibilities under this Code and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the SAGRC with its responsibilities under the Code. The expenses of the SAGRC in accordance with such budget shall be appropriated by the Council from the Net Revenues paid to the Pueblo.

12. Orders

The SAGRC may issue any order or decision, which the SAGRC has the power to issue, to any Gaming Enterprise, Gaming Employee, or Management Contractor, or to any other person within the jurisdiction of the Pueblo, to take any action or cease and desist from any action as may be required to protect to the public interest in gaming.

F. Hearings

The SAGRC may conduct hearings, investigations, inquiries compel the production of any information or documents, or otherwise exercise the investigatory powers necessary to carry out its duties under this Code.

G. Director

The SAGRC may appoint and retain an individual to serve as Director of the SAGRC to administer and enforce its duties and responsibilities under this Code and to oversee the inspectors appointed by the SAGRC and other staff as the SAGRC may employ, and to conduct hearings, investigations, and otherwise act on behalf of the SAGRC as authorized by the SAGRC. The Director shall be responsible for coordination of the functions of the SAGRC and other federal, state, and local agencies as necessary.

H. Procedures of the SAGRC

### 1. Regular meetings

Regular meetings of the SAGRC may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the SAGRC. Unless otherwise specified by the SAGRC, no notice of such regular meetings shall be necessary.

### 2. Special meetings

Special meetings of the SAGRC may be called by the Chairman of the SAGRC or may be held by teleconference or by polling. The Chairman shall fix the time and place of the special meeting. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the SAGRC need to be specified in the notice of the meeting.

### 3. Quorum

At any meeting of the SAGRC, a majority of the SAGRC members shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the SAGRC. The Chairman shall preside at all meetings of the SAGRC unless the Chairman designates another member to preside in his absence. Approval of action telephonically or by polling is also authorized.

### 4. Notice of SAGRC action

No action of the SAGRC to impose a penalty pursuant to this Code or to revoke a gaming license shall be valid unless the person affected is given at least seven (7) calendar days' notice of the proposed action and the opportunity to appear and to be heard before the SAGRC, either in person or through a representative or legal counsel, and to submit such evidence as the SAGRC deems relevant to the matter at issue. No notice is necessary to suspend a gaming license, but a revocation hearing must be held within nine (9) days or the suspension shall be discharged automatically.

### 5. Hearings

If the SAGRC deems it necessary to protect the public interest in the integrity of the gaming activities, the SAGRC may take such action with immediate effect as it deems required and shall thereupon provide notice and an opportunity to be heard to the affected person as soon as is reasonably practicable following such action. Any person who is denied a gaming license or who is barred from the Gaming Facilities by action of the SAGRC may request a hearing before the SAGRC by written request submitted within thirty (30) days following receipt of notice of the action of the SAGRC. The SAGRC shall thereupon afford an opportunity to appear and be heard either in person or through a representative or legal counsel, and to submit such evidence as the SAGRC deems relevant to the matter at issue. The SAGRC shall either affirm or reconsider its decision. The SAGRC may direct the Director or one or more members of the SAGRC designated by the SAGRC to conduct any hearings.

### 6. Rules and procedures

The SAGRC may adopt any additional procedures and rules as it deems necessary or convenient to govern its affairs and which are consistent with this Code.

#### Sec. 17-4-10 Appeals to Tribal Court

Any person aggrieved by the final action of the SAGRC may file an appeal to the Tribal Court. The person shall file a notice of appeal stating the specific basis of the appeal and pay any court fees. Upon receipt of a notice of appeal, the court clerk shall schedule a hearing before the Tribal Court. The decision of the Tribal Court shall be final.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992, adopted by NIGC on August 9, 1994.

#### Sec. 17-4-11 Prohibited Acts

It shall be a violation of this Code for any person to:

A. Conduct or participate in any gambling on Pueblo Lands other than at an authorized and licensed Gaming Facility.

B. Receive, distribute, apply or divert any property, funds, proceeds, or other assets of the Gaming Enterprise to the benefit of any person except as authorized by this Code, a Compact, or the Act.

C. Tamper with any Gaming Device or Gaming Equipment used in the conduct of any gaming activity with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of the Gaming Enterprise.

D. Do any other act in connection with the conduct of any Gaming Enterprise with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of such Gaming Enterprise.

E. To alter or misrepresent the outcome of other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

F. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.

G. To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a Gaming Device or Gaming Equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.

H. To place or increase a wager or bet after acquiring knowledge of the outcome of the game or other event, which is the subject of the bet, including past-posting and pressing bets.

I. To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event, which is the subject of the bet, including pinching bets.

J. To manipulate, with the intent to cheat, any component of an electronic Game of Chance or Gaming Device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to manipulating a Gaming Device, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

K. Knowingly to use other than coins or tokens approved by the SAGRC or other lawful coin, legal tender of the United States of America, or to use a coin not of the same denomination as the coin intended to be used in the Gaming Device.

L. To possess, with the intent to use, any device to assist in projecting the outcome of the game, in keeping track of the cards played, in analyzing the probability of the occurrence of an event relating to the game, or in analyzing the strategy for playing or betting to be used in the game.

M. To use any device or means to cheat, or to possess any such device while at the Gaming Facility.

N. Knowingly to entice or induce another to go to any place where gaming is being conducted or operated in violation of the provisions of this Code, the Act, a Compact, or other applicable law and regulation with the intent that the other person play or participate in that gaming.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992, adopted by NIGC on August 9, 1994.

#### Sec. 17-4-12 Penalties

Any person who violates any provision of this Code shall be subject to civil penalties, termination of employment by the Gaming Enterprise, denial or revocation of a gaming license, exclusion from attendance at any Gaming Facility, or exclusion from Pueblo Lands if a non-member of the Pueblo. The SAGRC may impose a fine of not more than \$500.00 for each violation. The SAGRC shall have the jurisdiction to impose any penalties on any person within the jurisdiction of the Pueblo.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992, adopted by NIGC on August 9, 1994.

#### Sec. 17-4-13 Sovereign Immunity

The Pueblo does not in any way waive its sovereign immunity from suit in any court to contest the validity of this Code. However, the final decisions of the SAGRC may be appealed to and shall be subject to final review only in the Tribal Court.

Enacted by Ordinance Number 92-O-04, adopted December 10, 1992, adopted by NIGC on August 9, 1994.

## **ARTICLE 5 - CORPORATIONS & PARTNERSHIPS**

**- Reserved -**



## **ARTICLE 6 - TRADE PRACTICES**

*- Reserved -*

## **ARTICLE 7 - ARTS & CRAFTS**

*- Reserved -*

## **ARTICLE 8 - CONSTRUCTION CODE**

*- Reserved -*

Note: Ordinance No. 90-0-01 - adopted as the Code of the Pueblo of Santa Ana the Uniform Building Code, Uniform Mechanical Code, National Electrical Code, and the Uniform Plumbing Code to regulate the construction of commercial and/or public buildings and structures within the reservation boundaries and any Indian County of the Pueblo.

## **ARTICLE 9 MOTOR VEHICLE DEALER CODE**

### **Sec. 17-9-1 Purpose**

It is the purpose of this Motor Vehicle Dealer Code to define the types of motor vehicle dealers that, on and after the date of enactment of this Code, will be allowed to be established and to operate on Pueblo lands, and to set forth certain requirements and conditions under which any such dealer may operate, so as to further the Pueblo's policy of reducing the threat of climate change, to assure the highest quality in dealer operations and to assure the protection of consumers from any fraudulent, unethical or unfair practices on the part of any such dealer.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

### **Sec. 17-9-2 Findings**

The Tribal Council finds as follows:

- A. Climate change is the most critical health, welfare and social issue facing the Pueblo and all persons on the planet, now and in the foreseeable future, and all persons should see it as their responsibility to take whatever steps are available to them to reduce the emission of greenhouse gasses into the atmosphere;
- B. Internal combustion engines that power nearly all of the motor vehicles on the road today generate a very substantial percentage of the daily carbon dioxide emissions into the atmosphere, besides causing local pollution that results in respiratory disease and other ills to the public;
- C. The Tribal Council is committed to the development of diverse economic enterprises on Pueblo land that will generate good-paying jobs for Pueblo

members and others and will generate revenues for the Pueblo, but it is also committed to assuring that such enterprises are engaged in activities that are consistent with the environmental and social values of the Pueblo, including combating climate change and environmental pollution;

- D. Promoting the sale and distribution of electric motor vehicles on Pueblo land would constitute an important step towards accomplishing the goals set by the Tribal Council, in that such vehicles hold out the promise of greatly reducing carbon emissions, and an enterprise devoted to selling and servicing such vehicles could be an important source of jobs for Pueblo members and others and a source of revenue for the Pueblo; and
- E. It is in the interest of the Pueblo to establish procedures that will enable electric motor vehicle dealers established on Pueblo lands to carry on their businesses in an orderly fashion, in accordance with Pueblo law, and to assure that purchasers of electric motor vehicles from such dealers are properly licensed and are assured of fair and ethical treatment.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

### Sec. 17-9-3 Definitions

As used in this Article, the following terms shall have the following meanings:

- A. “Fraud” means, in addition to its normal legal connotation, the following:
  - 1. A misrepresentation, whether intentional or due to gross negligence, of a material fact concerning a motor vehicle or the terms of a transaction involving a motor vehicle;
  - 2. A promise or representation not made honestly and with a good faith belief in its truth; and
  - 3. An intentional failure to disclose a material fact about a motor vehicle being offered for sale or about the terms of a transaction involving a motor vehicle.
- B. “Motor vehicle” means a self-propelled vehicle having three or more wheels by which a person or property can be lawfully transported on a public highway.
- C. “Electric motor vehicle” means a motor vehicle powered solely by electricity stored in a battery or that is generated by the vehicle itself, which battery has a capacity of not less than six kilowatt hours, is capable of powering the vehicle for a distance of at least fifteen miles, and is capable of being recharged from an external source of electricity.
- D. “Electric motor vehicle manufacturer” means a corporation or other legal entity that manufactures electric motor vehicles and does not manufacture motor vehicles that are wholly or partly powered by internal combustion engines.
- E. “Motor vehicle dealer” means any person or entity that owns or operates a business on Pueblo land that involves, among other things, the display, offering

for sale, sale of and delivery of motor vehicles, and the servicing and repair of such vehicles, and may include a manufacturer of such motor vehicles.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 17-9-4 Allowable Sales of Motor Vehicles on Pueblo Lands

- A. No person or entity shall, on or after the date of enactment of this code, establish a business on Pueblo land that involves the sale, or offers to sell, of any motor vehicle other than an electric motor vehicle, manufactured by an electric motor vehicle manufacturer.
- B. An electric motor vehicle manufacturer that enters into a lease or sublease of Pueblo lands may carry on the business of selling electric motor vehicles, servicing of such vehicles whether purchased at such dealership or elsewhere, and delivery of such vehicles, provided that no motor vehicles other than electric motor vehicles may be sold, serviced or delivered at or by such dealership.
- C. No electric motor vehicle dealership may commence or carry on operations on Pueblo lands without first obtaining, and thereafter maintaining in force, a Pueblo business license in accordance with Title XVII, Article 1, of this Tribal Code.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 17-9-5 Unlawful Acts by Dealers

It is unlawful for any motor vehicle dealer to:

- A. Require a retail purchaser of a new motor vehicle, as a condition of sale or delivery thereof, to purchase special or optional features, equipment, parts or accessories not ordered or desired by the purchaser, provided that such features, equipment, parts or accessories are not already on the new motor vehicle when it is received by the dealer and as it was shown to the purchaser; and provided that nothing herein shall preclude a purchaser from conditioning his or her offer to purchase on the removal of some non-standard or optional feature, equipment, part or accessory from the motor vehicle;
- B. Use false, deceptive or misleading advertising in connection with any aspect of its business;
- C. Defraud any retail purchaser to his damage;
- D. Fail to perform the obligations placed on the dealer in connection with the preparation and delivery of a new motor vehicle for retail sale as provided in the manufacturer's preparation and delivery agreements;
- E. Fail to perform the obligations placed on the dealer in connection with the manufacturer's warranty agreements;

- F. Represent or sell as a new motor vehicle any motor vehicle that has been used and operated for demonstration purposes or which is otherwise a used motor vehicle; or
- G. Intentionally fail to perform anything required by any written agreement arrived at with any retail purchaser.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 17-9-6 Civil Actions

- A. Any person who suffers damage due to a violation of this code by a motor vehicle dealer may bring an action against the dealer in any court of competent jurisdiction, and upon prevailing in any such action the plaintiff shall be awarded his or her damages plus a penalty in an amount to be set by the court, but not more than \$10,000.00, and his or her costs and reasonable attorneys= fees; but provided that the parties may agree by written contract that any such action shall be submitted to arbitration under the Commercial Arbitration rules of the American Arbitration Association, in a proceeding to be held in Bernalillo or Sandoval County, New Mexico, in which the foregoing terms would apply
- B. Any action under this section must be brought within two years of the date on which the violation was discovered, or should have been discovered.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 17-9-7 Temporary Registration Permits

- A. The Pueblo shall provide temporary registration permits to licensed electric motor vehicle dealers, that shall be issued to each purchaser of a motor vehicle from such dealerships. The dealership shall pay the Pueblo a fee of \$25.00 for each temporary registration permit issued to a purchaser, which fee may be passed through to the motor vehicle purchaser. The temporary registration permit shall be affixed to the rear window of the newly purchased motor vehicle, in a manner and at a location such that it is clearly visible and legible from the rear of the vehicle, and shall be valid for a period of no more than 60 days, or until the date as of which the purchaser has secured a permanent registration from the jurisdiction where the purchaser resides, whichever is earlier. Each Pueblo temporary registration permit shall be on a form prescribed by the Pueblo, shall bear a unique alphanumeric symbol, shall contain the name of the dealership that issued the permit, and shall state the date of expiration of the permit.
- B. A Pueblo temporary registration permit that has been issued to the purchaser of a motor vehicle on Pueblo lands is not assignable or transferable, nor may its validity be extended beyond the date stated on the permit.

- C. Each motor vehicle dealership shall keep accurate, up-to-date records of each temporary registration permit issued, the name of the purchaser of the vehicle and the date of purchase, the make, model and vehicle identification number of the vehicle, and the alphanumeric number of the temporary registration permit. Each dealership shall, no less often than quarterly, provide the Pueblo with a detailed report on the temporary registration permits issued, the amount of fees paid, and other relevant information.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.